

House Study Bill 643 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
ADMINISTRATIVE SERVICES
BILL)

A BILL FOR

1 An Act concerning the duties and operations of the department
2 of administrative services.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 DIVISION I

2 STATE DEBT COLLECTION SETOFF PROCEDURES

3 Section 1. Section 8A.504, subsection 2, paragraph f,
4 subparagraph (1), Code Supplement 2011, is amended to read as
5 follows:

6 (1) Upon notice of entitlement to a payment, the state
7 agency shall send written notification to that person of the
8 state agency's assertion of its rights to all or a portion of
9 the payment and of the state agency's entitlement to recover
10 the liability through the setoff procedure, the basis of
11 the assertion, the opportunity to request that a jointly or
12 commonly owned right to payment be divided among owners, and
13 the person's opportunity to give written notice of intent
14 to contest the amount of the allegation. ~~The state agency~~
15 ~~shall send a copy of the notice to the collection entity.~~ A
16 state agency subject to chapter 17A shall give notice, conduct
17 hearings, and allow appeals in conformity with chapter 17A.

18 DIVISION II

19 ENERGY DEVELOPMENT AND CONSERVATION

20 Sec. 2. Section 8A.301, Code 2011, is amended by adding the
21 following new subsections:

22 NEW SUBSECTION. 01. *"Alternative and renewable energy"*
23 means the same as in section 473.1.

24 NEW SUBSECTION. 2A. *"Energy"* or *"energy sources"* means the
25 same as in section 473.1.

26 Sec. 3. NEW SECTION. 8A.381 **Energy development and**
27 **conservation — duties — report.**

28 1. The department shall do all of the following relating to
29 energy development and conservation:

30 a. Administer and coordinate federal funds for energy
31 conservation, energy management, and alternative and renewable
32 energy programs.

33 b. Administer and coordinate the building energy management
34 program including projects funded through private financing.

35 2. The department shall submit a report by January 1

1 annually to the governor and the general assembly detailing
2 services provided and assistance rendered pursuant to the
3 building energy management program created in section 8A.383,
4 and pursuant to sections 8A.385 and 8A.386, and regarding
5 receipts and disbursements in relation to the building energy
6 management fund created in section 8A.384.

7 Sec. 4. NEW SECTION. **8A.382 Energy management improvements**
8 **identified and implemented.**

9 The state, state agencies, political subdivisions of the
10 state, school districts, area education agencies, and community
11 colleges may identify and implement, through energy audits
12 and engineering analyses, all energy management improvements
13 identified for which financing is facilitated by the department
14 for the entity. The energy management improvement financings
15 shall be supported through payments from energy savings.

16 Sec. 5. NEW SECTION. **8A.383 Building energy management**
17 **program.**

18 1. The building energy management program shall be
19 administered by the department. The building energy management
20 program consists of the following forms of assistance for the
21 state, state agencies, political subdivisions of the state,
22 school districts, area education agencies, community colleges,
23 and nonprofit organizations:

24 a. Promoting program availability.

25 b. Developing or identifying guidelines and model energy
26 techniques for the completion of energy analyses for state
27 agencies, political subdivisions of the state, school
28 districts, area education agencies, community colleges, and
29 nonprofit organizations.

30 c. Providing technical assistance for conducting or
31 evaluating energy analyses for state agencies, political
32 subdivisions of the state, school districts, area education
33 agencies, community colleges, and nonprofit organizations.

34 d. Providing or facilitating loans, leases, and other
35 methods of alternative financing under the energy loan program

1 for the state, state agencies, political subdivisions of the
2 state, school districts, area education agencies, community
3 colleges, and nonprofit organizations to implement energy
4 management improvements or energy analyses. In providing
5 financing under this paragraph, the department may set interest
6 rates and fees corresponding to administrative and operational
7 costs.

8 *e.* Providing assistance for obtaining insurance or a
9 guarantee on the energy savings expected to be realized from
10 the implementation of energy management improvements.

11 *f.* Facilitating and providing self-liquidating financing for
12 the state, state agencies, political subdivisions of the state,
13 school districts, area education agencies, community colleges,
14 and nonprofit organizations pursuant to section 8A.386.

15 *g.* Assisting the treasurer of state with financing
16 agreements entered into by the treasurer of state on behalf
17 of state agencies to finance energy management improvements
18 pursuant to section 12.28.

19 2. For the purpose of this section, section 8A.385,
20 and section 8A.386, "*energy management improvement*" means
21 construction, rehabilitation, acquisition, or modification of
22 an installation in a facility or vehicle which is intended to
23 reduce energy consumption, or energy costs, or both, or to
24 allow the use of alternative and renewable energy. "*Energy*
25 *management improvement*" may include control and measurement
26 devices. "*Nonprofit organization*" means an organization exempt
27 from federal income taxation under section 501(c)(3) of the
28 Internal Revenue Code.

29 3. *a.* Moneys awarded or allocated to the state, its
30 citizens, or its political subdivisions as a result of the
31 federal court decisions and United States department of energy
32 settlements resulting from alleged violations of federal
33 petroleum pricing regulations attributable to or contained
34 within the Stripper Well fund shall be allocated to and remain
35 under the control of the department for utilization for energy

1 program-related staff support purposes.

2 *b.* Moneys received by the state under the state energy
3 program of the federal American Recovery and Reinvestment Act
4 of 2009 may be utilized by the department, in addition to any
5 other appropriations, grants, funds, or gifts received by the
6 department, for the purposes of the building energy management
7 program.

8 Sec. 6. NEW SECTION. **8A.384 Building energy management**
9 **fund.**

10 1. The building energy management fund is created within
11 the state treasury under the control of the department.
12 The fund shall be used for the operational expenses and
13 administrative costs incurred by the department in facilitating
14 and administering the building energy management program
15 established in section 8A.383.

16 2. The building energy management fund shall consist of
17 amounts deposited into the fund or allocated from the following
18 sources:

19 *a.* Any moneys awarded or allocated to the state, its
20 citizens, or its political subdivisions as a result of the
21 federal court decisions and United States department of energy
22 settlements resulting from alleged violations of federal
23 petroleum pricing regulations attributable to or contained
24 within the Exxon fund. Amounts remaining in the oil overcharge
25 account established in section 455E.11, subsection 2, paragraph
26 "e", Code 2007, and the energy conservation trust established
27 in section 473.11, Code 2007, as of June 30, 2008, shall be
28 deposited into the building energy management fund pursuant to
29 this paragraph, notwithstanding section 8.60, subsection 15,
30 Code 2007.

31 *b.* (1) Moneys received in the form of fees imposed upon
32 the state, state agencies, political subdivisions of the
33 state, school districts, area education agencies, community
34 colleges, and nonprofit organizations for services performed or
35 assistance rendered pursuant to the building energy management

1 program. Fees imposed pursuant to this paragraph shall be
2 established by the department in an amount corresponding to
3 the operational expenses or administrative costs incurred by
4 the department in performing services or providing assistance
5 authorized pursuant to the building energy management program,
6 in an amount not to exceed five percent of the total project
7 cost.

8 (2) Any fees imposed shall be retained by the department and
9 are appropriated to the department for purposes of providing
10 services or assistance under the program.

11 c. Moneys appropriated by the general assembly and any
12 other moneys, including grants and gifts from government and
13 nonprofit organizations, available to and obtained or accepted
14 by the department for placement in the fund.

15 d. Moneys contained in the intermodal revolving loan fund
16 administered by the department of transportation for the fiscal
17 year beginning July 1, 2019, and succeeding fiscal years.

18 e. Moneys in the fund are not subject to section 8.33.
19 Notwithstanding section 12C.7, interest or earnings on moneys
20 in the fund shall be credited to the fund.

21 3. The building energy management fund shall be limited to
22 a maximum of one million dollars. Amounts in excess of this
23 maximum limitation shall be transferred to and deposited in
24 the rebuild Iowa infrastructure fund created in section 8.57,
25 subsection 6.

26 Sec. 7. NEW SECTION. 8A.385 Energy loan program.

27 1. An energy loan program is established and shall be
28 administered by the department.

29 2. The department may facilitate the loan process for
30 political subdivisions of the state, school districts,
31 area education agencies, community colleges, and nonprofit
32 organizations for implementation of energy management
33 improvements identified in an energy analysis. Loans shall
34 be facilitated for all cost-effective energy management
35 improvements. For political subdivisions of the state, school

1 districts, area education agencies, community colleges, and
2 nonprofit organizations to receive loan assistance under the
3 program, the department shall require completion of an energy
4 management plan including an energy analysis. The department
5 shall approve loans facilitated under this section.

6 3. a. Cities and counties shall repay the loans from moneys
7 in their debt service funds. Area education agencies shall
8 repay the loans from any moneys available to them.

9 b. School districts and community colleges may enter
10 into financing arrangements with the department or its duly
11 authorized agents or representatives obligating the school
12 district or community college to make payments on the loans
13 beyond the current budget year of the school district or
14 community college. Chapter 75 shall not be applicable. School
15 districts shall repay the loans from moneys in either their
16 general fund or debt service fund. Community colleges shall
17 repay the loans from their general fund. Other entities
18 receiving loans under this section shall repay the loans from
19 any moneys available to them.

20 4. Political subdivisions of the state, school districts,
21 area education agencies, and community colleges shall design
22 and construct the most energy cost-effective facilities
23 feasible and may use financing facilitated by the department to
24 cover the incremental costs above minimum building code energy
25 efficiency standards of purchasing energy-efficient devices and
26 materials unless other lower cost financing is available.

27 5. The department shall not require the state, state
28 agencies, political subdivisions of the state, school
29 districts, area education agencies, or community colleges to
30 implement a specific energy management improvement identified
31 in an energy analysis if the entity that prepared the analysis
32 demonstrates to the department that the facility which is the
33 subject of the energy management improvement is unlikely to be
34 used or operated for the full period of the expected savings
35 payback of all costs associated with implementing the energy

1 management improvement, including, without limitation, any fees
2 or charges of the department, engineering firms, financial
3 advisors, attorneys, and other third parties, and all financing
4 costs including interest, if financed.

5 6. As used in this section, unless the context otherwise
6 requires:

7 *a. "Facility"* means a structure that is heated or cooled by
8 a mechanical or electrical system, or any system of physical
9 operation that consumes energy to carry out a process.

10 *b. "Loans"* means loans, leases, or alternative financing
11 arrangements.

12 Sec. 8. NEW SECTION. **8A.386 Self-liquidating financing.**

13 1. *a.* The department may facilitate financing agreements
14 that may be entered into with political subdivisions of the
15 state, school districts, area education agencies, community
16 colleges, or nonprofit organizations to finance the costs of
17 energy management improvements on a self-liquidating basis.
18 The provisions of section 8A.385 defining eligible energy
19 management improvements apply to financings under this section.

20 *b.* The financing agreement may contain provisions, including
21 interest, term, and obligations to make payments on the
22 financing agreement beyond the current budget year, as may
23 be acceptable to political subdivisions of the state, school
24 districts, area education agencies, community colleges, or
25 nonprofit organizations.

26 *c.* The department shall assist the treasurer of state with
27 financing agreements entered into by the treasurer of state on
28 behalf of state agencies pursuant to section 12.28 to finance
29 energy management improvements being implemented by state
30 agencies.

31 2. Political subdivisions of the state, school districts,
32 area education agencies, community colleges, and nonprofit
33 organizations may enter into financing agreements and issue
34 obligations necessary to carry out the provisions of this part.
35 Chapter 75 shall not be applicable.

1 Sec. 9. Section 12.28, subsection 6, Code 2011, is amended
2 to read as follows:

3 6. The maximum principal amount of financing agreements
4 which the treasurer of state can enter into shall be one
5 million dollars per state agency in a fiscal year, subject
6 to the requirements of section 8.46. For the fiscal year,
7 the treasurer of state shall not enter into more than one
8 million dollars of financing agreements per state agency,
9 not considering interest expense. However, the treasurer
10 of state may enter into financing agreements in excess of
11 the one million dollar per agency per fiscal year limit if a
12 constitutional majority of each house of the general assembly,
13 or the legislative council if the general assembly is not in
14 session, and the governor, authorize the treasurer of state
15 to enter into additional financing agreements above the one
16 million dollar authorization contained in this section. The
17 treasurer of state shall not enter into a financing agreement
18 for real or personal property which is to be constructed for
19 use as a prison or prison-related facility without prior
20 authorization by a constitutional majority of each house
21 of the general assembly and approval by the governor of
22 the use, location, and maximum cost, not including interest
23 expense, of the real or personal property to be financed.
24 However, financing agreements for an energy conservation
25 measure, as defined in section 7D.34, for an energy management
26 improvement, as defined in section ~~473.19~~ 8A.383, or for
27 costs associated with projects under section ~~473.13A~~ 8A.382,
28 are exempt from the provisions of this subsection, but are
29 subject to the requirements of section 7D.34. In addition,
30 financing agreements funded through the materials and equipment
31 revolving fund established in section 307.47 are exempt from
32 the provisions of this subsection.

33 Sec. 10. Section 279.53, Code 2011, is amended to read as
34 follows:

35 **279.53 Loan proceeds.**

1 The proceeds of loans issued to school districts pursuant
2 to section 8A.385, 279.48, or 279.52, ~~or 473.20~~ shall be
3 deposited into either the general fund of a school district
4 or the physical plant and equipment levy fund. The board of
5 directors shall expend the amount of the principal and interest
6 due each year to maturity from the same fund into which the
7 loan proceeds were deposited.

8 Sec. 11. Section 298.3, subsection 1, paragraph g, Code
9 Supplement 2011, is amended to read as follows:

10 g. Expenditures for energy conservation, including payments
11 made pursuant to a guarantee furnished by a school district
12 entering into a financing agreement for energy management
13 improvements, limited to agreements pursuant to section ~~473.19,~~
14 ~~473.20~~ 8A.383, 8A.385, or ~~473.20A~~ 8A.386.

15 Sec. 12. Section 473.7, subsections 3, 4, 5, 8, 9, and 10,
16 Code Supplement 2011, are amended by striking the subsections.

17 Sec. 13. Section 473.15, Code Supplement 2011, is amended
18 to read as follows:

19 **473.15 Annual report.**

20 The authority, in cooperation with the department of
21 administrative services, shall complete an annual report
22 to assess the progress of state agencies in implementing
23 energy management improvements, alternative and renewable
24 energy systems, and life cycle cost analyses under chapter
25 470, and on the use of renewable fuels. The authority shall
26 work with state agencies and with any entity, agency, or
27 organization with which they are associated or involved in
28 such implementation, to use available information to minimize
29 the cost of preparing the report. The authority shall also
30 provide an assessment of the economic and environmental impact
31 of the progress made by state agencies related to energy
32 management and alternative and renewable energy, along with
33 recommendations on technological opportunities and policies
34 necessary for continued improvement in these areas.

35 Sec. 14. REPEAL. Sections 473.13A, 473.19, 473.19A,

1 473.20, and 473.20A, Code Supplement 2011, are repealed.

2 Sec. 15. TRANSITION PROVISIONS — CONTINUATION OF GRANTS.

3 1. Any moneys remaining in any account or fund under
4 the control of the economic development authority relative
5 to the provisions of this Act shall be transferred to the
6 comparable fund or account under the control of the department
7 of administrative services for such purposes. Notwithstanding
8 section 8.33, the moneys transferred in accordance with this
9 subsection shall not revert to the account or fund from which
10 appropriated or transferred.

11 2. Any license, permit, or contract issued or entered
12 into by the office of energy independence or the economic
13 development authority relating to the provisions of this Act in
14 effect on the effective date of this Act shall continue in full
15 force and effect pending transfer of such licenses, permits, or
16 contracts to the department of administrative services.

17 3. Federal funds utilized by the director of the office of
18 energy independence or the economic development authority prior
19 to the effective date of this Act to administer the provisions
20 of a federal grant under the provisions of this Act shall be
21 applicable to the department of administrative services for the
22 same purposes.

23 Sec. 16. ADMINISTRATIVE RULES — TRANSITION PROVISIONS.

24 1. Any rule, regulation, form, order, or directive
25 promulgated by the economic development authority relative
26 to the provisions of this Act in existence on the effective
27 date of this Act shall continue in full force and effect until
28 amended, repealed, or supplemented by affirmative action of
29 the department of administrative services under the duties
30 and powers established in this Act and under the procedure
31 established in subsection 2.

32 2. In regard to updating references and format in the Iowa
33 administrative code in order to correspond to the transferring
34 of duties as established in this Act, the administrative rules
35 coordinator and the administrative rules review committee, in

1 consultation with the administrative code editor, shall jointly
2 develop a schedule for the necessary updating of the Iowa
3 administrative code.

4 EXPLANATION

5 This bill concerns the duties and operations of the
6 department of administrative services (DAS) relating to state
7 debt collection setoff procedures and energy development and
8 conservation.

9 STATE DEBT COLLECTION SETOFF PROCEDURES. Code section
10 8A.504(2)(f), concerning setoff procedures, is amended to
11 eliminate the requirement that a copy of a state agency's
12 notice to a person asserting a right to a payment be also
13 provided to the collection agency. Under current law, the
14 collection agency is DAS or any other state agency that
15 maintains a separate accounting system and elects to establish
16 a debt collection setoff procedure.

17 ENERGY DEVELOPMENT AND CONSERVATION. 2011 Iowa Acts,
18 chapter 118, concerning the establishment of the economic
19 development authority, eliminated the office of energy
20 independence and transferred many of the duties of that office
21 to the economic development authority, including the duties
22 related to energy development and conservation in Code chapter
23 473. The bill transfers some of the duties under Code chapter
24 473 from the economic development authority to DAS.

25 Code section 8A.301, concerning definitions related to the
26 physical resources duties of DAS, is amended to add references
27 to two definitions contained in Code chapter 473 that relate to
28 duties transferred from that Code chapter to Code chapter 8A.

29 New Code section 8A.381 references the duties transferred
30 to DAS from the economic development authority and includes
31 a reporting requirement previously included in Code section
32 473.19.

33 Code section 473.13A (energy management improvements
34 identified and implemented) is repealed and the substance of
35 the Code section transferred to new Code section 8A.382.

1 Code section 473.19 (building energy management program)
2 is repealed and the substance of the Code section transferred
3 to new Code section 8A.383. In addition, the new Code
4 section provides that moneys received by the state under the
5 state energy program of the federal American Recovery and
6 Reinvestment Act of 2009 can be used for the purpose of the
7 program.

8 Code section 473.19A (building energy management fund) is
9 repealed and the substance of the Code section transferred to
10 new Code section 8A.384. In addition, the new Code section
11 provides that fees imposed by DAS for operational expenses
12 or administrative costs incurred by DAS for a project cannot
13 exceed 5 percent of the total project cost.

14 Code section 473.20 (energy loan program) is repealed and
15 the substance of the Code section transferred to new Code
16 section 8A.385.

17 Code section 473.20A (self-liquidating financing) is
18 repealed and the substance of the Code section transferred to
19 new Code section 8A.386.

20 Code section 473.7, concerning the duties of the economic
21 development authority under Code chapter 473, is amended to
22 strike those duties transferred to DAS.

23 Code section 473.15, concerning annual reports by the
24 economic development authority, is amended to provide that the
25 reports be done in cooperation with DAS.

26 The bill also includes transition provisions so that funds
27 impacted by this bill and previously under the control of the
28 economic development authority are transferred to DAS and any
29 grants, contracts, or loans entered into by the authority or
30 the office of energy independence relative to the provisions
31 of this bill prior to the effective date of the bill remain in
32 force when the duties are transferred to DAS. In addition,
33 the bill provides that any administrative rules entered into
34 by the economic development authority relative to the duties
35 transferred in the bill remain in effect until changed by DAS.